

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2011-006342-002 DT

04/26/2013

HONORABLE MARGARET R. MAHONEY

CLERK OF THE COURT

A. Gonzalez

Deputy

STATE OF ARIZONA

KEVIN KIYOSHI OKANO

v.

GABRIEL JOHN SANCHEZ (002)

DOB: 8/15/1977

CHRISTOPHER M WINCHELL

APO-SENTENCE IMPRISON-CCC

APPEALS-CCC

AZ DOC

AZ DOC - GENERAL COUNSEL

DISPOSITION CLERK-CSC

RFR

SENTENCE OF IMPRISONMENT

COURTROOM – SCT 8A

1:35 p.m. This is the time set for Sentencing and Trial on Priors.

State's Attorney:	Kevin Kiyoshi Okano
Defendant's Attorney:	Christopher M. Winchell
Defendant:	Present
Court Reporter:	Tara Kramer

Proceedings are also electronically recorded by For the Record, FTR.

The Court is informed that the Defendant will be stipulating to certain prior felony convictions.

The Court advises the Defendant of the implications of his admission to prior felony convictions and of his right to a trial to the Court for the State to prove the prior felony convictions.

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THE COURT FINDS that the Defendant's decision to admit to the following prior felony convictions in made knowingly, intelligently and voluntarily. Accordingly, pursuant to A.R.S. § 13-703 or 13-704,

THE COURT FINDS that on June 21, 2005, Defendant committed the crime of Possession of Weapon, a Felony, for which he was convicted on November 18, 2005 in the Court of Cheyenne, Laramie County, Wyoming in cause no. CR785015050062. The parties agree that this felony is equivalent to the crime of Misconduct Involving Weapons and a Class 4 Felony in Arizona. On April 3, 2009, Defendant was revoked to prison in that cause, bringing the relevant date to within ten years of the date of conviction in the present cause.

THE COURT FURTHER FINDS that on March 4, 2011, Defendant committed the crimes of Misconduct Involving Weapons, a Class 4 Felony and two Counts of Aggravated Assault, Class 3 Felonies, with two prior felony convictions. Defendant was convicted of these felonies on December 2, 2012 in Maricopa County Arizona cause no. CR2011-142899-001, while represented by counsel.

LET THE RECORD REFLECT the Court has considered the Sentencing Memoranda, the Presentence Investigation Report, counsel's statements and the Defendant's statement.

The Court also considers the Aggravating Factors found by the Jury of as to each Count, 1. Presence of an accomplice, and 2. Defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value..

COUNTS 1, 2 and 3: Defendant was found guilty after a Trial by Jury.

IT IS THE JUDGMENT of the Court Defendant is GUILTY of the following:

OFFENSE: Count 1 Possession of Burglary Tools
Class 6 Felony with 2 prior felony convictions
A.R.S. § 13-1501, 13-1505, 13-301, 13-302, 13-303, 13-304, 13-701, 13-702, 13-801
Date of Offense: on or about the 4th day of May, 2011
Non Dangerous - Repetitive

OFFENSE: Count 2 Theft
Class 2 Felony with 2 prior felony convictions
A.R.S. § 13-1801, 13-1802, 13-301, 13-302, 13-303, 13-304, 13-701, 13-702, 13-801
Date of Offense: on or about the 4th day of May 2011
Non Dangerous - Repetitive

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OFFENSE: Count 3 Burglary in the Third Degree
Class 4 Felony with 2 prior felony convictions
A.R.S. § 13-1501, 13-1506, 13-301, 13-302, 13-303, 13-304, 13-701, 13-702, 13-801
Date of Offense: on or about the 4th day of May 2011
Non Dangerous - Repetitive

AS PUNISHMENT, IT IS ORDERED Defendant is sentenced to a term of imprisonment and is committed to the Arizona Department of Corrections as follows:

Count 1: 3.75 years from April 26, 2013
Presentence Incarceration Credit: 623 days
Presumptive

Count 2: 15.75 years from April 26, 2013
Presentence Incarceration Credit: 623 days
Presumptive

Count 3: 10 years from April 26, 2013
Presentence Incarceration Credit: 623 days
Presumptive

CONCURRENT: Sentences in Counts 1, 2 and 3 are concurrent with each other and concurrent with Sentence in CR2011-142899-001.

IT IS ORDERED the Defendant shall pay through the Clerk of the Superior Court:

ASSESSMENTS:

Count 1: PROBATION SURCHARGE: \$20.

The Arizona Department of Corrections shall notify the Clerk of the Court of Maricopa County of Defendant's release from custody via e-mail cforesponse@mail.maricopa.gov. The Clerk of the Court, upon said notification, shall furnish financial information for a Criminal Restitution Order for Judicial signature for any unpaid monies to date.

The Court retains jurisdiction over RESTITUTION. Should a restitution hearing be held, the Defendant would waive his presence if he is housed in the Arizona Department of Corrections at the time of the hearing but would not waive his presence if he is housed in the custody of the Maricopa County Sheriff at the time of the hearing.

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Community Supervision: Counts 1, 2, 3 - Imposed pursuant to A.R.S. § 13-603(I).

IT IS ORDERED that upon completion of the defendant's prison sentence in this case, the Arizona Department of Corrections shall not release the defendant to community supervision, but shall return the defendant to the custody of the Maricopa County Jail to await resolution of charges in CR2011-008279-001.

IT IS FURTHER ORDERED that Defendant must submit to DNA testing for law enforcement identification purposes and pay the applicable fee for the cost of that testing in accordance with A.R.S. § 13-610.

IT IS ORDERED authorizing the Sheriff of Maricopa County to deliver the Defendant to the Arizona Department of Corrections to carry out the term of imprisonment set forth herein.

IT IS ORDERED the Clerk of the Superior Court remit to the Arizona Department of Corrections a copy of this Order or the Order of Confinement together with all presentence reports, probation violation reports, and medical and psychological reports that are not sealed in this cause relating to the Defendant.

As agreed by all parties,

DO NOT TRANSPORT TO AZ DEPARTMENT OF CORRECTIONS UNTIL FURTHER ORDER OF THE COURT DUE TO PENDING MARICOPA COUNTY SUPERIOR COURT CAUSE NO. CR2011-008279-001.

2:19 p.m. Matter concludes.

ISSUED: Order of Confinement - Certified Copy to DOC via MCSO.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.

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Defendant's right index fingerprint is permanently affixed to this sentencing order in open court.

/s/ ***Margaret R. Mahoney***

HONORABLE MARGARET R. MAHONEY
JUDGE OF THE SUPERIOR COURT

(right index fingerprint)